

UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII
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HONOLULU, HAWAII 96850

BARRY M. KURREN
UNITED STATES MAGISTRATE JUDGE

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TRIAL PROCEDURES BEFORE MAGISTRATE JUDGES BARRY M. KURREN, LESLIE E. KOBAYASHI AND KEVIN S.C. CHANG *(Last Revised: 04/10/01)*

1. **Trial Schedule:** Except for the day of jury selection, jury trial begins each day at 8:30 a.m. and runs until 1:30 p.m. every day unless otherwise announced. There is no lunch break taken during trial hours. Jurors and counsel are advised to bring a snack for consumption during a break. Short breaks are taken during the trial at various intervals. Certain days for jury trial may extend beyond 1:30 p.m. when the judge deems it necessary. For jury selection, the trial day starts at 9:00 a.m., has a lunch break from 12 noon to 1:30 p.m., and concludes at 4:00 p.m. Trial hours are sometimes longer for non-jury trials. Sanctions may be imposed on any party, attorney or witness for tardiness that delays the court proceedings.
2. **Bench Conferences:** Bench conferences or side bars are highly discouraged and not generally permitted. If a problem arises during examination, counsel should defer the matter and move to another line of questioning and the dispute will be resolved during a recess. In general, counsel will meet daily with the judge at 8:15 a.m. prior to trial, during recess or after the jury is dismissed for the day to discuss any anticipated disputes.
3. **Voir Dire:** The court conducts the general voir dire and will incorporate special voir dire based on questions that the parties may have submitted. Each side will then have a maximum of fifteen (15) minutes for voir dire which shall include both general and individual questioning of the jurors.
4. **Juror note taking:** Jurors will be permitted to take notes during trial, if they desire to do so. The court will provide notebooks and pens. These notebooks will be left face-down on the jurors' chairs when they leave the courtroom. The jurors may, if they wish, take their notes into the jury deliberation room. After the conclusion of the trial, these notes will be destroyed.

5. **Motions in limine:** Motions in limine shall be filed in accordance with the deadlines set forth in the Rule 16 Scheduling Order. These motions will be heard, in general, the day before jury selection. If the parties want to request that these motions be heard at an earlier date, they should make this request at the Final Pretrial Conference.
6. **Use of demonstrative aids during opening statement, witness examination or closing argument:** During opening statements, demonstrative aids (such as exhibits, charts or other material) shall not be displayed to the jury without a stipulation by all parties or leave of court. Agreement of the parties shall be sought first and, only after such agreement cannot be reached, then leave of court may be sought. Similarly, if counsel want to show material which is not in evidence to the jury during witness examination or closing argument, the proffering party must obtain, in advance of the proffer, all parties' consent or leave of court. Agreements of the parties or leave of court shall be sought prior to opening statement, witness examination or closing argument, and without delaying proceedings before the jury. In general, the court will not permit an exhibit to be passed among the jurors.
7. **Use of microphone:** Counsel shall use the microphone provided when addressing the court or the jury such as in any examination, objection, statement for the record, or argument.
8. **Exhibits:** Parties are required to meet and confer to agree upon a common set of exhibits. Counsel shall inform the court, no later than the hearing on the motions in limine, of the exhibits that all counsel have agreed may be admitted into evidence and any disputed exhibits. Any party objecting to the admission of any exhibits listed shall inform the court of the exhibits in dispute by exhibit number. A party may seek, during trial or an evidentiary hearing, to add exhibits not previously listed by asking for leave of court. The party seeking to add exhibits shall provide the court and all of the parties with copies of the additional exhibits, mark the additional exhibits with appropriate exhibit numbers, and submit supplemental exhibit lists reflecting the additional exhibits.
9. **Motions during trial:** Generally, motions should be in writing.
10. **Witnesses:** The next day's witnesses shall be disclosed by the proffering counsel to other counsel by no later than the close of each day's trial proceedings. Counsel should arrange for a sufficient number of witnesses for each day and there should not be any delay in trial proceedings caused by witness unavailability.
11. **Deposition testimony:** Deadlines for the deposition testimony designations and objections are as set forth in the Rule 16 Scheduling Conference Order. If deposition testimony is to be published to the jury, the party offering this testimony should notify the other parties and the court in a timely manner so that the written or videotaped testimony can be edited in accordance with the court's ruling on any objections without any delay in the trial

proceedings. In general, such notification should be given no later than by noon of the day before the testimony is to be published to the jury.

a. Procedure: The party offering the testimony shall give a list of the precise designations that are in dispute to the court and the other parties no later than noon of the day before the testimony will be published to the jury. The offering party shall provide the court with two (2) working copies of the complete deposition and shall indicate with highlighting the precise deposition designations in dispute. A condensed transcript is preferred for this purpose. After the court rules on the objections, the offering party shall file with the court and serve all parties (before the testimony is published to the jury) a declaration by the party or counsel and attach a redacted copy of the deposition transcript reflecting the testimony permitted into evidence (“Working Copy”). If the deposition testimony is published to the jury by reading testimony aloud, then the offering party shall provide a person to read the testimony.

b. Final redacted transcript: A final redacted deposition transcript may be filed as an exhibit after the deposition testimony is published to the jury but the declaration of counsel or the party with the Working Copy must be provided to the court and all parties before the testimony is published to the jury.

12. **Jury Instructions:** Proposed jury instructions and proposed special verdict forms shall be submitted both in writing and on computer disk in ASCII or Word Perfect 8 or lower format.
13. **Interpreters:** Counsel and the parties are responsible for hiring and arranging for any interpreters who may be necessary for witness testimony. These arrangements should be made well in advance of trial.
14. **Special equipment:** Permission to use special equipment (such as television monitors, overhead projectors, and easels) must be obtained in advance from the court. Counsel are responsible for obtaining, setting up and removing special equipment.
15. **Telephone numbers:** Counsel shall exchange telephone numbers through which counsel may be reached after court hours and shall provide this information to the courtroom deputy before the start of trial so that notice may be given, if necessary, of any changes in schedule.
16. **Faxes to the Court:** No material may be faxed to chambers without prior permission from chambers staff.